

**Michigan Waste Industries Association
Testimony Before
House Committee on Great Lakes and Environment
January 31, 2007**

Good morning madam chair and members of the committee. My name is Dan Batts. I am the president of Michigan Waste Industries Association (MWIA) With me is Tom Horton, the vice president of MWIA.

We would like to thank you for the opportunity today to give testimony on HB 4047. We regret that time did not permit us to meet with you each individually to share some information about our industry prior to today's meeting and voice our concerns over HB 4047.

House Bill 4047 has been referred to and been noticed as a "moratorium on construction of new landfills and limits on expansions of existing landfills". The use of the word moratorium would seem to imply that we are going to temporarily stop our current landfill permitting process for some necessary purpose and then at some point in the future resume the process.

The bill before you has no apparent designated purpose but does have a repeal date of January 1, 2012. What is the five year period to be used for? Is it another attempt to legislatively halt, or at least slow down the importation of Canadian waste into Michigan?

We believe as an industry that a moratorium will have little or no impact on the Canadian waste issue. A landfill moratorium will impact nearly all fifty Type II landfills in Michigan, when today only two receive approximately eighty percent of the Canadian waste imported.

As drafted, House Bill 4047 has a retroactive effective date of December 31, 2005. Our industry questions the intent of such a date, and we also seek clarification of the status of the permits issued or pending between December of 2005 and the date this legislation may be signed into law? This part of HB 4047 potentially raises takings issues.

House Bill 4047 allows the Department to accept a permit application to construct an expansion to an existing landfill if the landfill has less than three years of remaining capacity. The complexity of constructing these facilities does not give us the opportunity to run this tight of a margin. Depending on site specifics with regard to geology and many other factors, which are sometimes negotiated for months with the Department, coupled with short construction seasons in Michigan, this could potentially lead to disruption in the acceptance of waste at a given facility or even temporary closures of facilities. These types of disruptions are costly to owners and in turn to you, our customers.

The existing solid waste planning process allows communities to structure agreements at the local and county level to collect fees and receive in kind services as part of contracts and county planning arrangements.

Some Michigan communities have spent years developing their planning process and identifying goals they seek to achieve. County-wide recycling programs are often successful only because local landfills and hauling companies have agreed over time to provide resources or be subject to fees due to local community authority over the planning process. A moratorium ignores the many agreements and local benefits communities have negotiated with the landfills they host. The blanket approach of a moratorium pulls the rug out from under local communities that have successfully used the planning process to benefit their residents.

Some counties and local communities currently have agreements that reap millions of dollars in tipping fees, pay for recycling programs, fund health departments and help pay for capital improvements from water mains to fire stations across Michigan.

The unintended consequences of a moratorium would likely be the interruption or dissolution of many of these agreements because the very core of these agreements is local control over landfill capacity. A moratorium would strip away local control without regard for the financial impact.

Landfills lacking a permit could be forced to curtail operations. Contractual obligations to supply long-term disposal capacity at fixed rates to local communities would be interrupted and prices would rise.

Local control over solid waste planning should not be displaced by a moratorium.

Multiple counties sometimes rely on capacity from a single landfill. Limiting a facility to only eight years of capacity with permit applications not allowed until only 36 months of capacity remain could result in a county not being able to identify the 66 months of capacity required under state law. If this occurred state regulations set in motion the process to construct a new landfill.

Our concern is having a shotgun regulatory approach applied to solid waste planning. A moratorium is a “one size fits all concept” that fails to recognize Michigan’s solid waste planning needs are as varied as our 83 counties are unique. The potential for unintended consequences are real because a moratorium strips away local control over the solid waste planning process.

MWIA appreciates the opportunity to voice our concerns on House Bill 4047. It is our desire as an association representing nearly all privately owned landfills in the state of Michigan to meet with each of you over the next few weeks to further discuss our issues with you.

We would be happy to answer any questions you might have at this time..